

U.S. DISTRICT COURT
IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF WISCONSIN

105 AUG -9 P2 :48

ALBERT PATTERSON d/b/a WORLD WRESTLING
ASSOCIATION, SUPERSTARS OF WRESTLING, INC.,

-vs-

Case No. 03-C-0374

WORLD WRESTLING ENTERTAINMENT, INC.
and GOOD HUMOR CORPORATION,
d/b/a Good Humor Breyer's Ice Cream

RULE 7.4 EXPEDITED NON-DISPOSITIVE MOTION FOR ADJOURNMENT

Defendants World Wrestling Entertainment, Inc. ("WWE"), and Good Humor Corporation, now known as Conopco, Inc. d/b/a Good Humor-Breyer's Ice Cream ("Good Humor"), (collectively "Defendants") hereby request relief from the currently scheduled trial date, September 12, 2005, for the reasons stated herein:

1. As of the date of this Motion, the Final Pre-Trial Conference is scheduled for August 29, 2005, with the trial scheduled to start two weeks thereafter on September 12, 2005. Defendants have been informed by the Court's Clerk that decisions regarding multiple, potentially outcome-determinative motions on file with the Court will be announced at or immediately before the Final Pre-Trial Conference. As such, the parties will not know what issues, if any, remain and are to be litigated until just two weeks prior to the trial. This will lead to tremendous waste of legal resources preparing to try matters that may not be tried.

2. Lead counsel for the defendants, Atty. Jerry S. McDevitt, also has a personal conflict with the current trial date, as his nephew is getting married on September 10, 2005 in Pennsylvania, and Mr. McDevitt would be unable to attend that wedding if the currently established trial date is maintained.

3. Lead counsel and the associate who would be primarily trying this matter, with assistance from local counsel, are based in Pittsburgh, Pennsylvania. If the trial date is to stand at September 12, 2005, they would immediately need to reserve lodging and make other arrangements for their presence at the trial. Doing so, however, and incurring the expenses, some of which may be non-refundable, is made difficult due to the status of the pending motions, and the extremely short time frame between the Final Pre-Trial Conference and the possible trial in this matter.

4. Defendants have made repeated efforts to contact opposing counsel, Atty. Charles Boutwell, and have left several messages, but have been unable to confer with him in this regard. (Defendants explain this lack of communication not to cast aspersions - Atty. Boutwell may, for example, simply be out of town on vacation - but rather to explain why the potential avenue of requesting relief through stipulation, as suggested by the Court's Clerk, is not being utilized.)

5. The plaintiffs will not be at all prejudiced by a modification to the trial date, as plaintiffs do not have witnesses whom they have subpoenaed or for whom they have coordinated the timing of testimony (as plaintiffs have named no witnesses).

6. The defendants, although seeking adjournment, would like the next available trial date (in case any trial issues remain after the motions are determined), as it is not defendants' intent to delay this matter, but rather to allow lead counsel to attend his nephew's

wedding and to allow the parties to address the relevant implications of the Court's rulings on the pending dispositive motions.

CONCLUSION

For the reasons stated herein, and in the interests of justice, Defendants hereby respectfully request this Honorable Court adjourn the trial in this matter until the next available trial date after September 12, 2005.

Respectfully submitted,

Dated: August 9, 2005

By: 
Shepard A. Davis
BURTON & DAVIS, LLP
611 N. Broadway
Milwaukee, Wisconsin 53202
Telephone: (414) 224-8000
Fax: (414) 224-7511

Jerry S. McDevitt
Curtis B. Krasik
KIRKPATRICK & LOCKHART
NICHOLSON GRAHAM LLP
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, Pennsylvania 15222
Telephone: (412) 355-6500
Fax: (412) 355-6501

Attorneys for Defendants World Wrestling Entertainment, Inc. and Conopco, Inc.

CERTIFICATE OF SERVICE

I hereby certify that Defendants' Rule 7.4 Expedited Non-Dispositive Motion for Adjournment was served this 9th day of August, 2005, by United States mail, upon the following counsel:

Charles Drake Boutwell
3075 Plum Island Drive
Northbrook, IL 60062



Shepard A. Davis, SBN 1017144